

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

VIA ECF

May 10, 2023

The Honorable Sarah Netburn
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

RE: *In Re: Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)

Dear Judge Netburn:

The Plaintiffs Executive Committees ("PECs") write in relation to Your Honor's Order of yesterday, ECF No. 9077, extending the deadline for jurisdictional discovery as to Al Rajhi Bank ("ARB") at the Court's initiative, to afford the Court time to resolve the parties pending discovery motions and "issue orders directing the parties as to how they should proceed."

The PECs respectfully request the Court's urgent guidance concerning the import of the Order to the deposition of ARB's 30(b)(6) corporate designee, previously noticed for tomorrow (May 11, 2023). Plaintiffs believe the Court's Order of yesterday is most logically read to have adjourned that 30(b)(6) deposition, until the Court has had an opportunity to resolve the pending motions. However, ARB's counsel has advised that he is presently in Riyadh and that ARB's position is therefore that "we need to go forward with the deposition as noticed."

In light of the Court's Order, Plaintiffs are wary of proceeding with the deposition without guidance from the Court. Plaintiffs are concerned not only with the potential that they may be violating the Court's Order by doing so, but also about the significant potential that proceeding with the deposition under these circumstances will result in additional discovery disputes going forward. That risk is especially concerning, given that ARB has objected to essentially every topic listed on Plaintiffs' Second Revised Notice of Deposition, a situation that raises serious doubt as to whether the witness will actually be appropriately prepared to testify as to all matters included in the Notice. A range of disputes could flow from these circumstances, and Plaintiffs are mindful that the Court wishes to avoid further motion practice as to discovery. ECF No. 9077. Plaintiffs also are wary of later being accused of waiving rights by proceeding with the deposition without the benefit of the Court's impending rulings.

Plaintiffs obviously appreciate the inconvenience arising from counsel's current presence in Saudi Arabia to prepare the witness and appear with him/her for the deposition, but note that various parties in the MDL have produced witnesses remotely (including The Kingdom) without complication or prejudice.¹ In addition, in the event the Court denies the motion for a protective

¹ Given the pending motions, including ARB's motion for a protective order as to the 30(b)(6) deposition itself, Plaintiffs respectfully submit that it would have been prudent for ARB to seek guidance from the Court before

Honorable Sarah Netburn

May 10, 2023

Page 2

order as to Abdullah Suleiman al Rajhi, we assume counsel for ARB would be traveling to Riyadh for that deposition as well, and the 30(b)(6) deposition could be coordinated with the Abdullah Suleiman al Rajhi deposition. As a result, Plaintiffs do not believe counsel's presence in Saudi Arabia dictates that the deposition must proceed without the benefit of the Court's forthcoming Orders on the pending discovery disputes.

To the extent the Court directs that the parties should proceed with the deposition, Plaintiffs have communicated their expectation that the 30(b)(6) witness will be appropriately prepared to testify as to all matters identified in the notice, regardless of ARB's pending objections to any of those topics, and that ARB will withdraw its pending motion for a protective order as to the 30(b)(6) deposition, ECF No. 9038, as moot. Plaintiffs have further advised ARB that they will reserve all rights based on the Court's impending Orders on the pending discovery motions. *See* Exhibit 1.

The PECs thank Your Honor in advance for the Court's guidance and attention with respect to this matter.

Respectfully submitted,

COZEN O'CONNOR

By: /s/ Sean P. Carter

SEAN P. CARTER

COZEN O'CONNOR

One Liberty Place

1650 Market Street, Suite 2800

Philadelphia, PA 19103

Tel.: (215) 665-2105

Email: scarter1@cozen.com

*On behalf of the Plaintiffs' Executive
Committees*

cc: All MDL Counsel of Record (via ECF)

LEGAL\63517041\1

traveling to Riyadh. *See* ECF No. 8202 (Order noting risks of inconvenience and cost associated with traveling overseas for deposition in uncertain circumstances).

Exhibit 1

Tarbutton, J. Scott

From: Sequeira, Reuben <rsequeira@whitecase.com>
Sent: Wednesday, May 10, 2023 10:17 AM
To: Carter, Sean
Cc: Tarbutton, J. Scott; NASP[rsheps@shepslaw.com]; Clark, Jr., William; Sher, Abby; Williams, Coleen D.; clopalo@napolilaw.com; WTC[ppetrocelli@stroock.com]; WTC[jbernard@stroock.com]; Mahaffey, Michael
Subject: RE: In re Terrorist Attacks on September 11, 2001, Case No. 1:03-md-01570-GBD-SN (S.D.N.Y.)

****EXTERNAL SENDER****

Sean:

We strongly dispute your position. If you intend to contact the Court by phone, we expect to be included.

-Reuben

Reuben Sequeira | Counsel
T +1 202 626 6486 M +1 202 460 9219 E rsequeira@whitecase.com
White & Case LLP | 701 Thirteenth Street, NW | Washington, DC 20005-3807

From: Carter, Sean <SCarter1@cozen.com>
Sent: Wednesday, May 10, 2023 10:09 AM
To: Sequeira, Reuben <rsequeira@whitecase.com>
Cc: Tarbutton, J. Scott <STarbutton@cozen.com>; NASP[rsheps@shepslaw.com] <rsheps@shepslaw.com>; Clark, Jr., William <WClark@cozen.com>; Sher, Abby <ASher@cozen.com>; Williams, Coleen D. <CWilliams@cozen.com>; clopalo@napolilaw.com; WTC[ppetrocelli@stroock.com] <ppetrocelli@stroock.com>; WTC[jbernard@stroock.com] <jbernard@stroock.com>; Mahaffey, Michael <michael.mahaffey@whitecase.com>
Subject: RE: In re Terrorist Attacks on September 11, 2001, Case No. 1:03-md-01570-GBD-SN (S.D.N.Y.)

Reuben – We understand your position. We think the Court’s order is most logically read as having adjourned the deposition, and we are wary of proceeding without guidance from the Court. We are concerned about being seen as violating the Court’s order, and about the risk that proceeding under these circumstances will result in additional discovery disputes. We are obviously sympathetic to the inconvenience resulting from the fact that you are in Riyadh for the deposition, but counsel in the MDL have produced numerous witnesses remotely without complication. In addition, in the event the Court denies the motion for a protective order as to Abdullah al Rajhi, we assume you would be traveling to Riyadh for that deposition as well, and the 30(b)(6) deposition could be coordinated with the Abdullah Al Rajhi deposition. In any case, we will seek clarification from the Court this morning.

To the extent that we do proceed, it will be Plaintiffs’ understanding and expectation that the witness will be appropriately prepared to testify as to every matter included in the Second Revised Notice, including any requiring inquiry beyond Al Rajhi’s current document production, and that Al Rajhi Bank agrees that its motion for a protective order as to the 30(b)(6) deposition is moot and will be withdrawn. Please confirm that is correct, and that Al Rajhi Bank will not be objecting to any questions based on objections or arguments raised in its motion for a protective order. In addition, Plaintiffs will reserve all rights to seek additional relief based on the Court’s impending rulings on the pending discovery motions.

Best, Sean



Sean P. Carter
Member | Cozen O'Connor
One Liberty Place, 1650 Market Street Suite 2800 | Philadelphia, PA 19103
P: 215-665-2105 F: 215-701-2105
Email | Bio | LinkedIn | Map | cozen.com

From: Sequeira, Reuben <rsequeira@whitecase.com>
Sent: Wednesday, May 10, 2023 12:53 AM
To: Carter, Sean <SCarter1@cozen.com>
Cc: Tarbutton, J. Scott <STarbutton@cozen.com>; NASP[rsheps@shepslaw.com] <rsheps@shepslaw.com>; Clark, Jr., William <WClark@cozen.com>; Sher, Abby <ASher@cozen.com>; Williams, Coleen D. <CWilliams@cozen.com>; clopalo@napolilaw.com; WTC[ppetrocelli@stroock.com] <ppetrocelli@stroock.com>; WTC[jbernard@stroock.com] <jbernard@stroock.com>; Mahaffey, Michael <michael.mahaffey@whitecase.com>
Subject: RE: In re Terrorist Attacks on September 11, 2001, Case No. 1:03-md-01570-GBD-SN (S.D.N.Y.)

****EXTERNAL SENDER****

Sean:

I am in Riyadh, and we need to go forward with the deposition as noticed.

My best,
Reuben

Reuben Sequeira | Counsel
T +1 202 626 6486 M +1 202 460 9219 E rsequeira@whitecase.com
White & Case LLP | 701 Thirteenth Street, NW | Washington, DC 20005-3807
WHITE & CASE

From: Carter, Sean <SCarter1@cozen.com>
Date: Wednesday, May 10, 2023 at 02:37
To: Sequeira, Reuben <rsequeira@whitecase.com>
Cc: Tarbutton, J. Scott <STarbutton@cozen.com>, NASP[rsheps@shepslaw.com] <rsheps@shepslaw.com>, Clark, Jr., William <WClark@cozen.com>, Sher, Abby <ASher@cozen.com>, Williams, Coleen D. <CWilliams@cozen.com>, clopalo@napolilaw.com <clopalo@napolilaw.com>, WTC[ppetrocelli@stroock.com] <ppetrocelli@stroock.com>, WTC[jbernard@stroock.com] <jbernard@stroock.com>, Mahaffey, Michael <michael.mahaffey@whitecase.com>
Subject: Re: In re Terrorist Attacks on September 11, 2001, Case No. 1:03-md-01570-GBD-SN (S.D.N.Y.)

Reuben - What is your position concerning the import of today's order as to the 30(b)(6) deposition scheduled for Thursday?

Thanks, Sean

On May 4, 2023, at 9:55 AM, Sequeira, Reuben <rsequeira@whitecase.com> wrote:

****EXTERNAL SENDER****

Counsel:

Regarding the Rule 30(b)(6) deposition set for May 11 at 7:30 AM ET, please provide information on the remote court reporting service and the platform for videography, court reporting, and deposition services. We can confirm that an interpreter won't be needed. Thanks.

My best,
Reuben

Reuben Sequeira | Counsel
T +1 202 626 6486 M +1 202 460 9219 E rsequeira@whitecase.com
White & Case LLP | 701 Thirteenth Street, NW | Washington, DC 20005-3807
<image001.png>

=====

=====

PLEASE NOTE: The information contained in this message is privileged and confidential, and is intended only for the use of the individual named above and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or if any problems occur with transmission, please contact sender or call (202) 626-3600. Thank you.

Our external privacy policy is available on <https://www.whitecase.com/privacy-policy>.

=====

=====

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.

=====

PLEASE NOTE: The information contained in this message is privileged and confidential, and is intended only for the use of the individual named above and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or if any problems occur with transmission, please contact sender or call (202) 626-3600. Thank you.

Our external privacy policy is available on <https://www.whitecase.com/privacy-policy>.

=====

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be

conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.

PLEASE NOTE: The information contained in this message is privileged and confidential, and is intended only for the use of the individual named above and others who have been specifically authorized to receive it. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or if any problems occur with transmission, please contact sender or call (202) 626-3600. Thank you.

Our external privacy policy is available on <https://www.whitecase.com/privacy-policy>.
